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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,528	10/21/2003	William A. Kanitz	96902-00001	4667
7590	11/01/2005			
Paul F. Swift McCarter & English, LLP Four Gateway Center 100 Mulberry Street Newark, NJ 07102			EXAMINER CABRERA, ZOILA E	
			ART UNIT 2125	PAPER NUMBER
DATE MAILED: 11/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/688,528	<b>Applicant(s)</b> KANITZ ET AL.	
	<b>Examiner</b> Zoila E. Cabrera	<b>Art Unit</b> 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20, 23, and 25-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Godfrey et al. (US 2003/0023337 A1).

1. A system for collecting and recording data on an item as the item experiences changes in state over time, comprising:

(A) first data input means for capturing a first set of data pertaining to a first state of the item in a first environment (Fig. 3, steps 242-243; Page 1, [0008]);

(B) second data input means for capturing a second set of data pertaining to a second state of the item in a second environment (Fig. 3, steps 249-250; Page 1, [0008]);

(C) data processing means for storing said first and second sets of data in a database and selectively accessing said first and second sets of data from said database (Page 1, [0010]; Page 2, [0020]); and

(D) communication means for communicating said first and second sets of data to said data processing means (Page 2, [0022]).

2. The system of Claim 1, further comprising transportable data storage means for receiving and storing a third set of data, said transportable data storage means physically accompanying the item for a selected length of time (Page 2, [0029]-[0031]; Fig. 3, Tag chip; Page 5, [0088]-[0089], please note that there are multiple operations that could be stored in the tag chip).

3. The system of Claim 2, further comprising a third data input means for reading said transportable data storage means and accessing said third set of data (Page 5, [0090]).

4. The system of Claim 3, further comprising a first output means for writing a fourth set of data to said transportable data storage means (Page 5, [0090]).

5. The system of Claim 3, wherein said first and second sets of data at least partially include data observed about the item in the first and second environments, respectively (Fig. 3, steps 242-243, 249-250).

6. The system of Claim 4, wherein said third set of data is captured by at least one of said first and second data input means (Fig. 4, element 370).

7. The system of Claim 4, wherein a portion of at least one of said first and second sets of data is included in said fourth set of data (Fig. 3, each manufacturing operations writes if successful operation and the Tag chip includes the compliance checks of each stage operations such as 1, 2, 3, 4, etc.).

8. The system of Claim 7, wherein a portion of said third set of data is included in said fourth set of data (Fig. 3, each manufacturing operations writes if successful

operation and the Tag chip includes the compliance checks of each stage operations such as 1, 2, 3, 4, etc.).

9. The system of Claim 4, wherein said first output means is selected from the group consisting of: a 2D matrix label printer, a barcode label printer, a text label printer, a magnetic card writer, a magnetic stick writer, a floppy disk writer, a and a CD writer (Page 2, [0024]; Page 3, [0035]).

10. The system of Claim 3, wherein said third data input means is selected from the group consisting of: a 2D matrix label reader, a CCD camera, a barcode reader, a magnetic stripe reader, a magnetic card reader, an EID tag reader, a magnetic stick reader a CD reader, a floppy disk reader and an optical character reader (Page 2, [0024]; Page 3, [0035]).

11. The system of Claim 2, wherein said transportable data storage means is selected from the group consisting of: a 2D matrix label, a barcode label, an EID tag, a magnetic stripe, a magnetic card, a magnetic stick, a ROM chip, a text label, a floppy disk and a CD disk (Page 2, [0024]; Page 3, [0035]).

12. The system of Claim 1, wherein said first data input means is selected from the group consisting of: a Personal Digital Assistant (PDA), a cell phone, a digital camera, a handheld computer, a personal computer with keyboard, and a weighing scale (Page 3, [0053]).

13. The system of Claim 1, wherein said data processing means includes a computer programmed with database management software (Page 3, [0053]).

14. The system of Claim 1, wherein said communications means includes a network and said data processing means is connected to said network (Page 5, [0095]).

15. The system of Claim 14, wherein said network is the internet (Page 5, [0095]).

16. A method for tracking an item as it changes state and environment over time, comprising the steps of:

(A) collecting and recording a first set of data pertaining to an item in a first state in a first environment (Fig. 3, steps 242-243; Fig. 4, elements 370, 361);

(B) changing at least one of the first state and the first environment of the item to a second state and a second environment (Page 2, [0021]; Fig. 4, Operation 2, W2; Page 5, [0093]-[0094]);

(C) collecting and recording a second set of data pertaining to the item (Fig. 3, steps 246-250);

(D) communicating the first and second sets of data to a data processing system (Fig. 4, elements 360, 362, 370);

(E) storing the first and second sets of data in a database of the data processing system (Page 3, [0053]);

(F) selectively accessing at least a portion of the first and second data sets (Page 5, [0087]; [0089]-[0091]).

17. The method of Claim 16, further including the step of reading a third set of data from first media physically accompanying the item (Fig. 4, operation n; Page 5, [0087]).

18. The method of Claim 17, further including the step of writing a fourth set of data on second media, said second media then being physically associated with the item to accompany the item for further changes in environment (Page 3, [0038]-[0039]).

19. Then method of Claim 16, wherein said step of collecting includes capturing observed data concerning the item when the item is in environment 1 (Fig. 3, operation 1)

20. The method of Claim 18, wherein the step of collecting includes capturing observed data concerning the item when the item is in the first environment (Fig. 3, steps 242-243), the step of communicating includes transmitting the first set of data over the internet to the data processing system (Fig. 4, element 370), the step of storing includes entering the first set of data into a database on the data processing system (Page 3, [0053]) and the step of selectively accessing includes submitting a query via database management software to select data from the database in response to a user-defined criterion (Page 5, [0095]; Page 4, [0065]).

23. The method of Claim 16, wherein the item is a component of a composite item having additional compositional items and further comprising the steps of tracking the additional compositional items and the composite item by performing the steps (A) through (F) for each (Page 2, [0021]-[0022]).

25. An item tracking system for collecting and recording data on an item as the item experiences changes in state over time, comprising:

(A) a server computer with data processing capability and a database, said server computer connected to the internet (Page 5, [0095]; Fig. 4, element 370);

(B) a plurality of geographically separated node systems connectable to the internet, each of said plurality of node systems capable of capturing data concerning the item at various times and states of the item and communicating the captured data to the server via the internet for storage in said database, said server computer capable of generating a history of said item from the data captured and sent to said server from said plurality of node systems (Figs. 4-5; Page 2, [0021]-[0022]; Page 6, [0098]-[0099]).

26. The tracking system of Claim 25, further including a label reader associated with at least a portion of said plurality of node systems, said label reader capable of reading labels physically associated with the item to obtain label data and communicating that label data to said server (Figs. 4-5; Page 5, [0093]-[0094]).

27. The tracking system of Claim 26, further comprising a label printer, said label printer printing labels representative of data concerning the item and thereby permitting the item to be relabeled with data that reflects an up-to-date product history (Page 1, [0007]; Fig. 2; Page 5, [0083]-[0087]; Page 3, [0035]).

28. The tracking system of Claim 27, wherein the type of label produced by said label printer is selected from the group consisting of: 2D matrix label, bar-code label and text label (Page 3, [0035]).



2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godfrey et al. (US 2003/0023337 A1) in view of Thorvaldsson et al. (US 6,546,304).

Regarding claims 21-22, Godfrey discloses the limitations of claim 16 above but fails to disclose identifying the source of a health threat associated with the item and that the item is a food product. However, Thorvaldsson discloses such limitations (Thorvaldsson, Abstract). Therefore it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the teachings of Godfrey and Thorvaldsson because it would provide an improved system for tracking back sources of contamination and for verification of the status and quality, weight of a product (Thorvaldsson, Col. 1, lines 10-20).

3. Claims 24, 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godfrey et al. (US 2003/0023337 A1).

Regarding claim 24, Godfrey discloses the limitations of claim 16 above but fails to disclose the item is the performance record of an athlete. But Godfrey discloses that his disclosure is for purposes of illustration only (Page 6, [0103]). Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to use the teachings of Godfrey to track the performance record of an athlete

because it would provide an automated method for easily accessing accurate performance data.

With respect to claims 29-30, Godfrey discloses the limitations of claim 27 and 25 above. Godfrey further discloses identification data for identifying the item and Tag associated with object including DATE /TIME STAMP (Page 5, [0087]). However, Godfrey fails to disclose the label printed by said label printer includes the internet address of said server and that the captured data on the item is communicated to said server along with data indicative of the geographic location of the item. However, it would have been obvious to a person of the ordinary skill in the art to include geographic location of the item and an internet address of said server because it would provide an improved system as taught by Godfrey wherein Data collectors located remotely can transfer the data with the corresponding geographic and location information for quickly monitoring the history of an item as fully disclosed by Godfrey (Page 1, [0007]; Page 2, [0022]).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-

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3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit 2125 are (571) 273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.



Zoila Cabrera  
Patent Examiner  
10/29/05